

NOT TO BE PUBLISHED

California Rules of Court, rule 977(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 977(b). This opinion has not been certified for publication or ordered published for purposes of rule 977.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

In re SEANDREA B., a Person Coming
Under the Juvenile Court Law.

SHASTA COUNTY DEPARTMENT OF SOCIAL
SERVICES,

Plaintiff and Respondent,

v.

STACY B.,

Defendant and Appellant.

C042880

(Super. Ct. No. 2321102)

Stacy B., mother of the minor, appeals from orders of the juvenile court terminating her parental rights. (Welf. & Inst. Code, § 366.26 [further undesignated statutory references are to this code].) Appellant contends the court erred by failing to find detriment to the minor in terminating parental rights because the evidence supported application of section 366.26, subdivision (c)(1)(A), the benefit exception, to termination of parental rights. We affirm.

FACTS

The minor, now four years old, was removed from parental custody, first in Sacramento County and then in Shasta County, three times between August 2000 and July 2001 due to appellant's substance abuse problems. After the last detention, the social worker recommended no further services be provided to appellant because her prior compliance was superficial. Following a contested hearing, the court adopted the recommendation and set a section 366.26 hearing.

The assessment for the section 366.26 hearing stated that appellant had monthly visits with the minor. The minor was happy to see appellant and cried when the visits ended. The social worker concluded that although there appeared to be a bond between appellant and the minor, the benefits of a stable adoptive home outweighed the benefits of continued contact and recommended termination of parental rights.

Because of the apparent bond between appellant and the minor, the court ordered a bonding study. Dr. David Wilson, a psychologist who performed the bonding study, believed that the minor's reaction at the end of visits could be a response to appellant's own neediness and/or a trigger for past loss and sense of rejection and abandonment. Dr. Wilson described the minor's attachment to appellant as "Insecure-Ambivalent," manifested in "anxiety confusion about where she is going to live when she continues to visit" appellant, "mild cling[iness]" with appellant and "vacillation between asserting herself" and "trying to comfort" appellant. However, the minor demonstrated a secure

attachment to her "fost/adopt" parents. Dr. Wilson was very concerned about the effect of another placement failure if the minor was returned to appellant and concluded that the benefits of a stable secure adoptive home outweighed the benefits to the minor of continued contact with appellant.

At the hearing, Dr. Wilson testified consistent with his written report that the minor's best interest would be served by termination of parental rights despite the bond she has with appellant. Appellant also testified, describing the positive interaction in her visits with the minor. Having heard testimony and considered the reports, the court terminated parental rights and ordered the minor placed for adoption.

DISCUSSION

Appellant contends the minor's bond with her was significant enough to support an exception to termination of parental rights.

"At the selection and implementation hearing held pursuant to section 366.26, a juvenile court must make one of four possible alternative permanent plans for a minor child. . . . *The permanent plan preferred by the Legislature is adoption.* [Citation.]" [Citations.] If the court finds the child is adoptable, it *must* terminate parental rights absent circumstances under which it would be detrimental to the child." (*In re Ronell A.* (1995) 44 Cal.App.4th 1352, 1368.) There are only limited circumstances which permit the court to find a "compelling reason for determining that termination [of parental rights] would be detrimental to the child." (§ 366.26, subd. (c)(1).) The party claiming the exception has the burden of

establishing the existence of any circumstances which constitute an exception to termination of parental rights. (*In re Cristella C.* (1992) 6 Cal.App.4th 1363, 1373; *In re Melvin A.* (2000) 82 Cal.App.4th 1243, 1252; Cal. Rules of Court, rule 1463(d)(3); Evid. Code, § 500.)

One of the circumstances under which termination of parental rights would be detrimental to the minor is: "The parents . . . have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship." (§ 366.26, subd. (c)(1)(A).) The benefit to the child must promote "the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents. . . . If severing the natural parent/child relationship would deprive the child of a substantial, positive emotional attachment such that the child would be greatly harmed, the preference for adoption is overcome and the natural parent's rights are not terminated." (*In re Autumn H.* (1994) 27 Cal.App.4th, 567, 575.) Even frequent and loving contact is not sufficient to establish this benefit absent a significant positive emotional attachment between parent and child. (*In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1418-1419; *In re Teneka W.* (1995) 37 Cal.App.4th 721, 728-729; *In re Brian R.* (1991) 2 Cal.App.4th 904, 924.)

Appellant has not met her burden to establish an exception to the preference for adoption. The evidence demonstrates the existence of a bond between appellant and the minor; however, the nature of that bond cannot be characterized as "a substantial,

positive emotional attachment." Despite the overall positive interaction between appellant and the minor in visits, the minor is not positively attached to appellant and responds to appellant's neediness with tears or lapses into caretaking by trying to comfort appellant. Appellant has not presented compelling evidence that termination of parental rights would be detrimental to the minor. The evidence before the court from the social worker and Dr. Wilson support the contrary conclusion.

DISPOSITION

The orders of the juvenile court are affirmed.

ROBIE, J.

We concur:

SCOTLAND, P.J.

DAVIS, J.